

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

BENSLEY CONSTRUCTION, INC.,
on its own behalf and on behalf
of all others similarly situated,

Plaintiff,

v.

MARSH & MCLENNAN
COMPANIES, INC., et al.

Defendants.

Civil Action No. 05 11249 GAO

**AFFIDAVIT OF KENNETH G. GILMAN IN SUPPORT OF PLAINTIFF'S
OPPOSITION TO THE LIBERTY DEFENDANTS' MOTIONS TO DISMISS**

Now comes Kenneth G. Gilman and after being duly sworn, deposes and says as follows:

1. I am one of the attorneys for the Plaintiff in the above-entitled action and have personal knowledge of the facts set forth herein. I am submitting this Affidavit in support of Plaintiff's Opposition to Motions to Dismiss of Defendants Liberty Mutual Group, Inc., Liberty Mutual Insurance Company, Liberty Mutual Fire Insurance Company, Employers Insurance Company of Wausau, and St. James Insurance Company, Ltd.

2. Attached hereto as Exhibit A is a true copy of a summons directed to St. James Insurance Company, Ltd., ("St. James") with the affidavit of a Massachusetts constable reflecting an attempt to serve the complaint upon St. James at 175 Berkeley Street, Boston, MA, on May 17, 2005 at 1:00 p.m.

3. Attached hereto as Exhibit B is a true copy of a summons directed St. James, with the affidavit of a Massachusetts constable reflecting an attempt to serve the complaint upon St.

James through its registered agent on May 17, 2005 at 12:14 p.m.

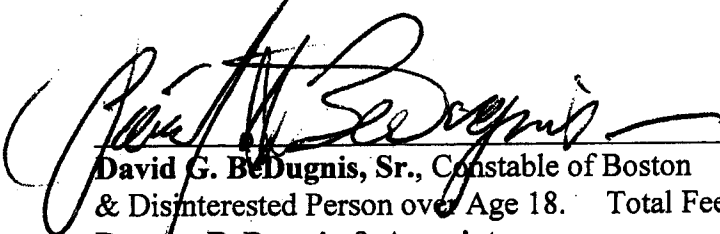
Signed under the pains and penalties of perjury this 27nd day of July, 2005.

/s/ Kenneth G. Gilman
Kenneth G. Gilman

Docket/Case No: 5 0277

I hereby certify and return that today, May 17, 2005, at 1:00 PM, I completed making due and diligent search for the within named St. James Insurance Company, LTD, for their last and usual place of Business, Agent or Attorney at 175 Berkeley Street, Boston, MA .I have been unable to find either within my precinct. I therefore return this writ without service upon St. James Insurance Company, LTD.

Signed under the pains and penalties of perjury today, May 17, 2005.



David G. BeDugnis, Sr., Constable of Boston
& Disinterested Person over Age 18. Total Fees: \$10.00

Roscoe, BeDugnis & Associates

15 Court Square, Suite 450

Boston , MA, 02108-2519

(617) 523-1036 , (617) 723-4247 Fax

(TO PLAINTIFF'S ATTORNEY: Please Circle Type of Action Involved: - TORT - MOTOR VEHICLE TORT -
CONTRACT - EQUITABLE RELIEF - OTHER.)

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT
CIVIL ACTION

Bensley Construction, Inc., on its own
behalf and on behalf of others similarly
situated

No. 5 0277

Plaintiff(s)

v.

Marsh & McLennan Companies, Inc., et al.

Defendant(s)

SUMMONS

Officer or Person in Charge of Business:

St. James Insurance Company LTD,

To the above named Defendant: 175 Berkeley Street, Boston, MA 02117

You are hereby summoned and required to serve upon Kenneth G. Gilman,
plaintiff's attorney, whose address is 60 State Street, 37th Flr., Boston, MA 02109, an answer to the
complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the
day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the
complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at
Lawrence either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counterclaim any claim which you may
have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's
claim or you will thereafter be barred from making such claim in any other action.

Barbara J. Rouse

WITNESS, [REDACTED], Esquire, at Salem, the
day of [REDACTED], in the year of our Lord two thousand

Thomas H. Russell Jr.
Clerk

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on _____, 20____, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (see Mass. R. Civ. P. 4 (d) (1-5):

Dated: _____, 20____

N.B. TO PROCESS SERVER:-
PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

_____, 20____

COMMONWEALTH OF
MASSACHUSETTS

ESSEX, ss. SUPERIOR COURT
CIVIL ACTION
No. 05-0277

Bensley Construction, Inc.

Plaintiff(s)

v.

Marsh & McLennan Companies, et al.

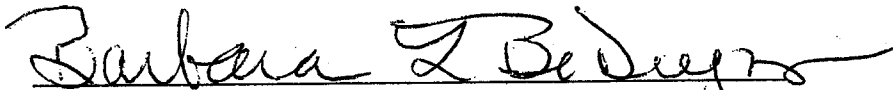
Defendant(s)

SUMMONS
(Mass. R. Civ. P. 4)

Docket/Case No: 5 0277

I hereby certify and return that today, May 17, 2005, at 12:14 PM, I completed making due and diligent search for the within named St. James Insurance Company, LTD, for their last and usual place of Business, Agent or Attorney at c/o C.T. Corporation System, 101 Federal Street, Boston, MA . I have been unable to find either within my precinct. I therefore return this writ without service upon St. James Insurance Company, LTD.

Signed under the pains and penalties of perjury today, May 17, 2005.



Barbara L. BeDugnis, Constable
& Disinterested Person over Age 18. Total Fees: \$17.50

Roscoe, BeDugnis & Associates

15 Court Square, Suite 450
Boston , MA, 02108-2519
(617) 523-1036 , (617) 723-4247 Fax

(TO PLAINTIFF'S ATTORNEY: Please Circle Type of Action Involved: TORT MOTOR VEHICLE TORT -
CONTRACT - EQUITABLE RELIEF - OTHER.)

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT
CIVIL ACTION
No.

Bensley Construction, Inc., on its own behalf and on behalf of others similarly situated. 5 0277, Plaintiff(s)

v.

Marsh & McLennan Companies, Inc., et al. Defendant(s)

SUMMONS

To the above named Defendant: CT Corporation System, 101 Federal Street, Boston MA 02110, Resident Agent of St. James Insurance Company LTD.

You are hereby summoned and required to serve upon Kenneth G. Gilman, plaintiff's attorney, whose address is 60 State Street, 37th Floor Boston, MA 02109, an answer to the

complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at

WALTER LAWRENCE either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Barbara J. Rouse

WITNESS, [REDACTED], Esquire, at Salem, the day of [REDACTED], in the year of our Lord two thousand

Thomas H. Russell Jr.
Clerk

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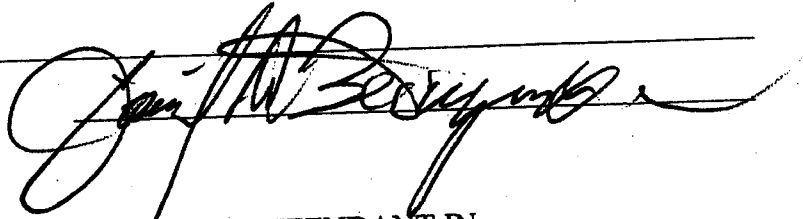
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_____, 20____

COMMONWEALTH OF
MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT
CIVIL ACTION
No. 05-0277

Bensley Construction, Inc.

Plaintiff(s)

v.

Marsh & McLennan Companies, et al.

Defendant(s)

SUMMONS
(Mass. R. Civ. P. 4)